

## § 1466.9

## 7 CFR Ch. XIV (1–1–04 Edition)

in EQIP only if NRCS determines that the land is:

- (1) Privately owned land;
- (2) Publicly owned land where:
  - (i) The land is under private control for the contract period and is included in the participant's operating unit; and
  - (ii) The conservation practices will contribute to an improvement in the identified natural resource concern; or
- (3) Tribal, allotted, or Indian trust land.
- (d) Sixty percent of available EQIP financial assistance will be targeted to conservation practices related to livestock production, including practices on grazing lands and other lands directly attributable to livestock production, as measured at the National level.

### § 1466.9 EQIP plan of operations.

- (a) All conservation practices in the EQIP plan of operations must be carried out in accordance with the applicable NRCS field office technical guide.
- (b) The EQIP plan of operations must include:
  - (1) A description of the participant's specific conservation and environmental objectives to be achieved;
  - (2) To the extent practicable, the quantitative or qualitative goals for achieving the participant's conservation and environmental objectives;
  - (3) A description of one or more conservation practices in the conservation management system to be implemented to achieve the conservation and environmental objectives;
  - (4) A description of the schedule for implementing the conservation practices, including timing and sequence; and
  - (5) Information that will enable evaluation of the effectiveness of the plan in achieving the environmental objectives.
- (c) If an EQIP plan of operations includes an animal waste storage or treatment facility, the participant must provide for the development and implementation of a comprehensive nutrient management plan.
- (d) Participants are responsible for implementing the EQIP plan of operations.
- (e) A participant may receive assistance to implement an EQIP plan of operations for water conservation with

funds authorized by section 1240I of the 1985 Act, 16 U.S.C. 3839aa-9, only if the assistance will facilitate a net savings in ground or surface water resources in the agricultural operation of the producer.

### § 1466.10 Conservation practices.

- (a) NRCS will determine which structural and land management practices are eligible for program payments. A list of eligible practices will be available to the public.
- (b) Cost-share and incentive payments will not be made to a participant for a conservation practice that the applicant has applied prior to application for the program.
- (c) Cost-share and incentive payments will not be made to a participant who has implemented or initiated the implementation of a conservation practice prior to approval of the contract unless a waiver was granted by the State Conservationist or Designated Conservationist prior to the installation of the practice.
- (d) A participant will be eligible for cost-share or incentive payments for irrigation related structural and land management practices only on land that has been irrigated for two of the last five years prior to application for assistance.
- (e) Where new technologies or conservation practices that provide a high potential for optimizing environmental benefits have been developed, NRCS may approve interim conservation practice standards and financial assistance for pilot work to evaluate and assess the performance, efficacy, and effectiveness of the technology or conservation practices.

### § 1466.11 Technical and other assistance provided by qualified personnel not affiliated with USDA.

- (a) NRCS may use the services of qualified Technical Service Providers in performing its responsibilities for technical assistance.
- (b) Participants may use technical and other assistance from qualified personnel of other Federal, State, and local agencies, Indian Tribes, or individuals who are certified as Technical Service Providers by NRCS.

(c) Technical and other assistance provided by qualified personnel not affiliated with USDA may include, but is not limited to; conservation planning; conservation practice survey, layout, design, installation, and certification; information, education, and training for producers; and training, certification, and quality assurance for professional conservationists. Payments to certified Technical Service Providers will be made only for an application that has been approved for payments.

(d) NRCS retains approval authority over certification of work done by non-NRCS personnel for the purpose of approving EQIP payments.

### **Subpart B—Contracts and Payments**

#### **§ 1466.20 Application for contracts and selecting offers from producers.**

(a) Any producer who has eligible land may submit an application for participation in the EQIP. Applications are accepted throughout the year. Producers who are members of a joint operation may file a single application for the joint operation.

(b) The State Conservationist or Designated Conservationist with advice from the State Technical Committee or Local Work Groups will develop a ranking process to prioritize applications for funding which address priority natural resource concerns. The State Conservationist or Designated Conservationist will periodically select for funding the highest ranked applications based on applicant eligibility and the NRCS ranking process. The State Conservationist or Designated Conservationist will rank all applications according to the following factors:

(1) The degree of cost-effectiveness of the proposed conservation practices,

(2) The magnitude of the environmental benefits resulting from the treatment of National priorities and the priority natural resource concerns reflecting the level of performance of a conservation practice,

(3) Treatment of multiple resource concerns,

(4) Use of conservation practices that provide environmental enhancements for a longer period of time,

(5) Compliance with Federal, state, local or tribal regulatory requirements concerning soil, water and air quality; wildlife habitat; and ground and surface water conservation, and

(6) Other locally defined pertinent factors, such as the location of the conservation practice, the extent of natural resource degradation, and the degree of cooperation by local producers to achieve environmental improvements.

(c) If the State Conservationist determines that the environmental values of two or more applications for cost-share payments or incentive payments are comparable, the State Conservationist will not assign a higher priority to the application solely because it would present the least cost to the program.

(d) The ranking will not give preferential treatment to applications based on size of the operation.

(e) The ranking will determine which applications will be awarded contracts. The approving authority for EQIP contracts will be the State Conservationist or designee except the approving authority for any EQIP contract greater than \$100,000 is the NRCS Regional Conservationist.

(f) The State Conservationist will make all information regarding priority resources concerns, how the EQIP program is implemented in the state, and the cost-list of eligible practices available to the public.

#### **§ 1466.21 Contract requirements.**

(a) In order for a participant to receive cost-share or incentive payments, the participant must enter into a contract agreeing to implement one or more conservation practices. Cost-share payments and incentive payments as well as reimbursement for Technical Service Provider technical assistance may be included in a contract.

(b) An EQIP contract will:

(1) Identify all conservation practices to be implemented, the timing of practice installation, the operation and maintenance requirements for the practices, and applicable cost-shares and incentive payments allocated to the practices under the contract;